HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.5495 OF 2007

Between:

Sri Jayarama Cashew Industries

. . .Petitioner

AND

A.P. Pollution Control Board and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri M.V.Suresh

Counsel for respondent Nos.1 to 3: Shri S.V.Bhatt

20th March, 2007

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PER G.S.SINGHVI, CJ

This petition is directed against order dated 08.02.2007 passed by Andhra Pradesh Pollution Control Board (for short 'the Board') for closure of cashew industry being operated by the petitioner in Sunnada Village, Palasa Mandal, Srikakulam District.

The petitioner has assailed the closure order mainly on the ground of violation of the rules of natural justice and non-application of mind by the concerned authority of the Board.

In the affidavit filed by him, Sri Doki Rama Rao, Proprietor of Sri Jayarama Cashew Industries, has averred that the industry was started in 1990 after obtaining permission from District Medical & Health Officer, Srikakulam. According to him, there is no cashew industry by name M/s. Bhagyalakshmi Cashew Industry besides Bhagyalakshmi Modern Rice Mill. The deponent has further averred that the closure order has been passed without giving notice and opportunity of hearing to the petitioner to show cause against the proposed action and the officers concerned have proceeded under a wholly erroneous assumption that M/s Bhagyalakshmi Cashew Industry is engaged in manufacturing activity.

Shri M.V.Suresh made strenuous efforts to persuade us to entertain the writ petition by arguing that the order under challenge is directed against non-existing industry and that before ordering closure of the cashew industry, the competent authority did not comply with the basic rules of natural justice, but on being pointed out by the Court that in the absence of valid consent, the petitioner cannot operate the industry, learned counsel submitted that the Court may direct the Board to consider the application which the petitioner would make for grant of consent under Water (Prevention and Control of Pollution) Act, 1974 (for short, 'the Water Act') and Air (Prevention and Control of Pollution) Act, 1981 (for short, 'the Air Act').

Shri S.V.Bhatt, learned counsel for the Board submitted that the

application, if any, made by the petitioner for grant of consent will be processed and decided at the earliest.

In view of the statements made by the learned counsel, the writ petition is disposed of in the following terms:

1) the petitioner's prayer for quashing the order impugned in the writ petition is rejected;

2) the petitioner may apply to the competent authority of the Board for grant of consent under the Water Act and the Air Act;

3) within four weeks of the submission of the application by the petitioner, the competent authority of the Board should indicate the statutory requirements which are to be satisfied by the petitioner as a condition precedent for grant of consent;

4) within four weeks of the fulfillment of the condition by the petitioner, the competent authority shall grant consent to the petitioner to operate cashew industry and issue necessary order.

As a sequel to disposal of the main petition, W.P.M.P.Nos.6990 and 6991 of 2007 filed by the petitioner for interim relief are disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 20.03.2007
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